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September 23, 1997

VIA HAND DELIVERY

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Re: MM Docket No. 87-268

Dear Mr. Caton

Transmitted herewith on behalf of Channel 51 of San Diego, Inc., the licensee of Television Station KUSI-TV, San Diego, CA, are original and four (4) copies of its Opposition to Supplemental Petition for Reconsideration and Supplemental Filing in the above-referenced proceeding.

Very truly yours

Stanley S. Neustadt

Stanley S. Neustadt

Enclosures

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

BEFORE THE

Federal Communications Commission

In the Matter of)
)
Advanced Television Systems)
and Their Impact upon the)
Existing Television Broadcast)
Service)

MM Docket No. 87-268

To: The Commission

**OPPOSITION OF CHANNEL 51 OF SAN DIEGO, INC. TO SUPPLEMENTAL
PETITION FOR RECONSIDERATION
AND SUPPLEMENTAL FILING**

Channel 51 of San Diego, Inc. ("Channel 51"), the licensee of Television Station KUSI-TV, San Diego, CA, by its attorneys, respectfully opposes the supplemental petitions filed in the above-captioned proceeding by Community Broadcasters Association ("CBA") and Venture Technologies ("VenTech"), and urges the Commission not to change the allocation table for digital television in the respects proposed by them. In support of its position, Channel 51 states:

1. The interest of Channel 51 in this matter is clear. Its station is located in an area of the country which has proved most difficult for allocation purposes. Its current NTSC operation is on Channel 51, and the Commission's proposal is for its DTV operation to be on Channel 18. Both CBA and VenTech propose Channel 52 as the DTV allocation for Station KUSI-TV, which is markedly less satisfactory on its face, because Channel 52 is not a core channel, while Channel 18 is. Allocation of Channel 18, although not ideal (as will again be shown), would at least obviate the possible need for a second, different DTV channel for the station in the future.

2. The allotment of Channel 18 for the KUSI-TV DTV operation, although much more in the public interest than the proposal of CBA and VenTech, is not the optimum allocation for the Channel 51 DTV operation. As has been shown by Channel 51 in its Petition for Reconsideration filed earlier in this proceeding, Channel 17 would have great advantages and no disadvantages, either for Channel 51 or any other station. The allocation of Channel 17 would require negotiation with the Government of Mexico, but it would appear that such negotiation could be successful. A comparable proposal has been made herein by Community TV of Los Angeles, the licensee of Noncommercial Educational Station KCET, Los Angeles, CA, in a Petition for Reconsideration. Although the channel proposed by KCET is different, the circumstances are essentially identical with those present here, and lend support to the benefit to be derived from the negotiations which are urged.

3. There is attached hereto the Engineering Statement of Bernard R. Segal, the consulting engineer for Channel 51. That Statement establishes that both the CBA and the VenTech proposals are very seriously flawed, and provide insufficient basis for the drastic relief which they seek. Most significantly, neither either sets forth or implies any effort to attempt replication of current service, a key factor in the Commission's determinations. Both urge serious deviations from the criteria set forth by the Commission, to which the Commission's allocations seek to comply.

4. Because of the extreme congestion of facilities in Southern California, a single change in any allotment would require changes in many other allocations (the "ripple effect"). The attached Engineering Statement notes that the CBA proposal would result in severe short spacing to land mobile stations. Its proposal would also violate the separations agreed upon by the governments of the United States and Mexico with respect to digital broadcasting along the common

border of those countries, even though those separations are less stringent than those now in force for NTSC stations in the two countries. In one instance, CBA has even proposed the same DTV channel for two different stations in the same city.

5. The VenTech proposal hardly fares better. It claims great advantages over the Commission's proposal, but fails to supply the basic data and interference criteria on which it is based, rendering difficult, if not impossible, any serious comparison with the Commission's allocations. The attached Engineering Statement sets forth numerous blatant errors in the VenTech proposal, such as egregious short spacings between television stations, and failure to protect land mobile users of adjacent frequencies. And these very many basic deviations from Commission criteria and rules were limited to examination of the allocations only in Southern California. It is difficult to believe that anything like a viable nationwide alternative to the Commission's allocation plan has been proposed.

6. Any accommodation of the proposals of CBA or VenTech with the priorities of the Commission would not be possible. Neither has presented sufficient data to justify doing once again an entire nationwide allocation plan, which would surely be required, to protect the interests of LPTV as against those of the television broadcast stations.

Respectfully submitted

CHANNEL 51 OF SAN DIEGO, INC.

By Stanley S. Neustadt

Robert B. Jacobi

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September 23, 1997

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**ENGINEERING STATEMENT
PREPARED ON BEHALF OF
CHANNEL 51 OF SAN DIEGO, INC.
SAN DIEGO, CALIFORNIA**

Channel 51 of San Diego, Inc. (hereafter, Channel 51) is the licensee of station KUSI-TV, San Diego, California. Station KUSI-TV operates on UHF channel 51 and the FCC has allotted channel 18 for DTV use for KUSI-TV. The Community Broadcasters Association (hereafter, CBA) has submitted a Supplement Petition for Reconsideration in the DTV proceeding. Also, Venture Technologies (hereafter, VenTech) has submitted a Supplemental Filing Relating to its Petition for Clarification and Partial Reconsideration of the Fifth and Sixth Reports and Orders in MM Docket Number 87-268. The instant engineering statement is in support of a consolidated opposition to both pleadings. Each pleading will be discussed in turn.

In its Supplement, CBA proposed a new table of allotments which, according to CBA, is not perfect, but serves to demonstrate that a revision of the FCC's allotment table is warranted since the CBA table demonstrates that it is possible to save many more channels for LPTV use than otherwise.

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Channel 51 opposes the CBA proposal and questions the validity of the assertion made since there are flaws in the plan which render the conclusions meaningless.

The undersigned has reviewed the proposed allotment plan only for the southern California area, the area of particular interest to Channel 51 because of the potential impact on station KUSI-TV. The plan proposes the allotment of DTV channel 52 to be paired with KUSI-TV's NTSC channel 51. The FCC plan has allotted channel 18 for DTV use for KUSI-TV. Because channel 18 is an in-core channel, it is preferable to channel 52 which is an out-of-core channel.

In formulating its allotment table, the FCC adhered to certain specific criteria. Among those criteria was the avoidance of allotments that would result in short spacings to land mobile facilities on specified UHF channels in certain major metropolitan areas. A second criterion was the adherence to international agreements. Each will be discussed in turn with particular emphasis on noncompliance with those criteria by the CBA plan, at least for the southern

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California region. Because of the extreme congestion in the southern California area, even so much as a single conflict that requires modification can result in a domino effect which can radically change the entire table. As demonstrated in the following paragraphs, the plan has at least six readily obvious flaws¹ in the southern California area alone and little reliance can be placed on the overall plan and the conclusions claimed for it.

The FCC has set aside channels 14, 16 and 20 for land mobile use in the Los Angeles area. Specific cochannel and first adjacent channel minimum separations are included as part of Section 73.623(e) of the Rules. In particular, for first adjacent channel DTV allotments, the minimum separation from the Los Angeles reference must be 176 kilometers. The CBA plan for southern California proposes DTV channel 15 at Corona; DTV channel 21 at Los Angeles; and DTV channel 19 at San Bernardino. The mentioned channels are first adjacent to channels used in the Los Angeles area for land mobile purposes. The reference site for the Corona channel 15 allotment is 25 kilometers from the

¹There are seven obvious flaws if the two flaws involving the channel 21 DTV allotment to Los Angeles are considered individually. The flaws are discussed in later paragraphs.

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land mobile Los Angeles reference for channels 14 and 16; the channel 21 reference site is 25 kilometers from the land mobile Los Angeles reference for channel 20; and the channel 19 reference site is 52 kilometers from the land mobile Los Angeles reference for channel 20. Each mentioned allotment represents an egregious short spacing that is not present in the FCC's table. The FCC allotted DTV channel 39 for Corona, DTV channel 66 for Los Angeles, and DTV channel 61 for San Bernardino. Also, as far as this writer has been able to determine, no short spacings to land mobile facilities on channels 14, 16 and 20 in the Los Angeles area occur in the FCC's DTV allotment scheme.

The FCC has entered into a Memorandum of Understanding (MOU) with its counterpart agency in Mexico for the development of the VHF and UHF bands for digital television broadcasting service along the common border. The MOU includes DTV-to-NTSC distance separations for guidance in formulating DTV allotments. The MOU separations are generally less stringent than for NTSC-NTSC allotments under the outstanding international agreement between the United States and Mexico. For cochannel UHF DTV-NTSC

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allotments, the MOU specifies a minimum separation of 244 kilometers. The international agreement specifies 280 kilometers.

As far as this writer can determine, the FCC table adheres to the MOU dictum. On the other hand, the CBA plan does not satisfy the MOU in at least three situations. The CBA plan calls for the allotment of DTV channels 21, 27 and 33 to Los Angeles for paired use with NTSC channels 13, 28 and 5, respectively. Channels 21, 27 and 33 are allotted for NTSC use at Tijuana, Baja California, in the outstanding agreement with Mexico, and those allotments are recognized in the MOU. For each of the mentioned proposed Los Angeles DTV allotments by CBA, the separation with respect to its counterpart NTSC Tijuana station is in the order of 214 kilometers. As indicated earlier, the MOU minimum separation for cochannel UHF DTV-to-NTSC situations is 244 kilometers. Thus, all three allotments do not fulfill the MOU constraint.

It is interesting to note that the proposed DTV channel 21 allotment to Los Angeles in the CBA plan has two defects; the first is with respect to a first adjacent short spacing to the land mobile operations in Los Angeles on channel

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20 and the second is with respect to the MOU short spacing to the Mexican NTSC allotment at Tijuana on channel 21.

Another obvious defect in the CBA plan is the proposal to allot DTV channel 65 for use for both NTSC stations 69 and 8 at San Diego. Unless shared-time operation is anticipated, the specification of the same DTV channel for two different NTSC stations is a glaring defect in the plan.

Taken *en toto*, the plan defects render it useless for any rational comparison with the FCC table or for any other purpose. Certainly, there is no way to determine the extent of service replication that would be achieved by any station.

Turning now to the VenTech pleading, that pleading includes as an Exhibit A, a table of allotments for southern California which it claims "allows for greater spectral efficiency, including protection of Mexican channels, preservation of LPTV stations, no overlap of cochannel NTSC and DTV signals in the crucial signal inducting area north of Los Angeles along the coastline

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toward Santa Barbara.” Also, it is claimed that “it avoids overlap of co-channel DTV and NTSC service areas, and reduces impact on LPTV stations, translator stations, unused assignments, and Land Mobile stations.” No support is provided indicating the spacing and/or interference criteria employed and no quantitative information to support the conclusionary claims are provided. No information is furnished that would permit a determination of how well the plan succeeds in providing service replication. Maximum service replication is a fundamental concept for the entire FCC allotment scheme. No means exist for testing the validity of the claimed results.

Channel 51’s interest in the VenTech plan stems from the Exhibit A proposed allotment of channel 52 for DTV use at San Diego for KUSI-TV. Channel 52 is an out-of-core channel that would require a second DTV facility construction for KUSI-TV. Accordingly, Channel 51 very much prefers the FCC’s DTV channel 18 allotment, all other factors being equal.

As will be demonstrated in succeeding paragraphs, the VenTech plan has many flaws; so much so that it cannot be used with any confidence to form

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rational comparisons with the FCC plan nor can it serve to represent success in the attainment of the stated conclusions. The following discussion demonstrates that the VenTech plan does not comport with FCC criteria and, therefore, should not be considered.

A cursory review of the Exhibit A allotment proposal reveals that some of the claimed attributes of the proffered plan are not satisfied when FCC criteria for establishing the Table of Allotments in the Sixth Report and Order are employed.

One of the important concerns in the FCC's allotment scheme was to provide for the protection of land mobile users in various major metropolitan areas. In Los Angeles, channels 14, 16 and 20 are designated for land mobile use. The VenTech plan proposes the allotment of DTV channel 17 to San Bernardino to be paired with first adjacent NTSC channel 18 with the transmitter at Sunset Ridge. The FCC plan is for DTV channel 61 to be paired with NTSC channel 18. As indicated, channel 16 is used for land mobile operations in Los Angeles and the reference site for determining compliance

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with the cochannel and first adjacent channel separation requirements is at geographic coordinates: 34° 03' 15" North Latitude, 118° 14' 28" West Longitude (see Section 73.623(e)²). The San Bernardino channel 18 site reference is at geographic coordinates 34° 11' 15" North Latitude, 117° 41' 54" West Longitude. The separation to the Los Angeles channel 16 land mobile reference is 52.2 kilometers. The required minimum first adjacent channel separation prescribed by Section 73.623(e) of the Rules is 176 kilometers. Hence, a severe short spacing to the land mobile users on channel 16 in Los Angeles is proposed.

Another similar short spacing example in the VenTech Exhibit A plan is that for the proposal to allot DTV channel 21 for paired use with Los Angeles NTSC channel 22. Station KWHY-TV operates on channel 22. The FCC's Sixth Report and Order allotted DTV channel 42 for paired use with channel 22. The transmitter site for KWHY-TV on channel 22 at Mt. Wilson bears the geographic coordinates: 34° 13' 36" North Latitude, 118° 03' 59" West Longitude. That site

²Section 73.623(e) was corrected to include channel 16 at Los Angeles by an Erratum released May 9, 1997.

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is only 25 kilometers from the land mobile channel 20 reference in Los Angeles.

The proposed allotment is short spaced 151 kilometers.

Two obvious additional first adjacent channel short spacings with respect to the Los Angeles land mobile reference occur at Santa Barbara where the Exhibit A plan calls for the allotment of DTV channel 15 for paired use with NTSC channel 38 and DTV channel 19 for paired use with NTSC channel 3. The FCC plan for Santa Barbara is for the allotment of DTV channels 26 and 27. Channel 26 is unpaired with an NTSC allotment and channel 27 is paired with NTSC channel 3. It is believed the channel 26 DTV allotment was intended to be paired with channel 38, but irrespective of the channel pairings, the important point is that the channel 3 reference site which would be used for channel 19 by the VenTech plan, i.e., $34^{\circ} 31' 32''$ North Latitude, $119^{\circ} 57' 28''$ West Longitude, is only 166.5 kilometers from the land mobile channel 20 reference in Los Angeles and the reference for DTV channel 26, which presumably is paired with NTSC channel 38, i.e., $34^{\circ} 25' 18''$ North Latitude, $119^{\circ} 41' 55''$ West Longitude, is only 140.3 kilometers from the land mobile reference on first adjacent channel 16 at Los Angeles. Thus, both the channel

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15 and channel 19 proposed Santa Barbara DTV allotments are short spaced to the Los Angeles land mobile reference for channels 16 and 20.

The foregoing shows at least four allotments which fail to comply with the spacing criteria for the avoidance of interference with land mobile operations in Los Angeles.

The proffered VenTech Appendix A provides no indication of the underlying criteria used to establish the proposed DTV allotments for the communities of Tijuana and Tecate in Baja California, Mexico. A detailed review of the VenTech plan has not been made by the undersigned, but it is quite clear that many of the allotments shown are short spaced under the terms of the present agreement between the United States and Mexico, and, also, with the terms of the Memorandum of Understanding (MOU) between the Federal Communications Commission and its counterpart Mexican agency relating to the use of the VHF and UHF bands for digital television broadcasting along the common border.

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Many of the proposed Tijuana DTV allotments are cochannel to NTSC allotments at Los Angeles. For example, Tijuana DTV channel 22 is cochannel to Los Angeles NTSC channel 22. Tijuana DTV channel 34 is cochannel to Los Angeles NTSC channel 34. The reverse situation prevails, also, in the plan; Tijuana NTSC channel 33 is cochannel to Los Angeles DTV channel 33, and Tijuana NTSC channel 21 is cochannel to Los Angeles DTV channel 21. The mentioned separations are in the order of 215 kilometers and the required minimum cochannel separation under the terms of the U.S.-Mexican Agreement is 280 kilometers. The MOU countenances a DTV-to-NTSC UHF cochannel minimum separation of 244 kilometers. The FCC allotment table, as far as this writer has been able to determine, comports with the MOU separations. VenTech provides no basis or support for the many NTSC-DTV cochannel U.S.-Mexican allotment short spacings that it proposes. On that point alone, the VenTech proposal fails.

No demonstration is furnished of how the plan succeeds or does not succeed in providing service replication in comparison to the FCC's allotment

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scheme. Actually, the plan is devoid of any information that would permit a rational comparison of benefits *vis-a-vis* the FCC's plan.

Because of the demonstrated failures of both plans to fulfill basic allotment separation criteria, their failures to comport with the terms of the current agreement with Mexico and with the MOU, and their failures to provide the means for ascertaining the extent of service replication for individual stations, they cannot be given any credence.

A handwritten signature in black ink, appearing to read "Bernard R. Segal". The signature is fluid and cursive, with the first name "Bernard" and last name "Segal" being the most prominent parts.

Bernard R. Segal, P.E.

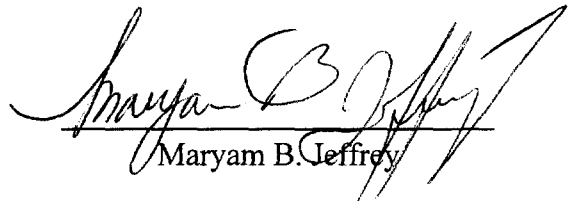
September 22, 1997

CERTIFICATE OF SERVICE

I, Maryam B. Jeffrey, do hereby certify that a true and correct copies of the foregoing OPPOSITION OF CHANNEL 51 OF SAN DIEGO, INC. TO SUPPLEMENTAL PETITION FOR RECONSIDERATION AND SUPPLEMENTAL FILING were mailed, first-class postage prepaid, this 23rd day of September, 1997 to the following:

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Maryam B. Jeffrey